

REMARKS

Claims 28 and 31-42 remain pending in the application and were examined and rejected in the most recent action. Claims 43-50 are newly added to the application. Claims 29 and 30 are canceled in view of the amendment to claim 28. The applicant respectfully traverses the rejections and requests reconsideration.

Initially, the applicant's undersigned representative wishes to thank Examiner Shen and Supervisory Patent Examiner Weber for granting and conducting an interview in this application on October 7, 2008. It is believed agreement was reached with respect to the allowability of amended claim 28, as discussed below.

As previously presented and as currently amended, claim 28 is believed allowable over Iwaki et al. (1999, hereinafter "Iwaki"). Iwaki describes a machine in use since at least the mid 1960s. There is no discussion in Iwaki that the aggregometer used in the Iwaki study incorporates a processor or a processor programmed to make a comparison of two blood sample characteristics to provide an indication of HiT. Therefore, Iwaki does not teach all of the limitations of claim 28, and claim 28 is therefore allowable over Iwaki. Because claims 29-50 depend from claim 28, these claims also are allowable for the same reasons and on their own merit.

As amended, it is believed claim 28 is allowable over the combination of Cohen (WO01/96879A2, hereinafter "Cohen") in view of Yamamoto (previously cited, hereinafter "Yamamoto") and Pravinkumar et al. (British J. of Anesthesia 2003;90(5) 676-685, hereinafter "Pravinkumar").

While Cohen teaches a machine capable of producing blood sample characteristic data including at least one of clot strength, clot elasticity, clot rate of formation and a clot rate of lysis, it does not teach a processor programmed to provide an indication of HiT based upon such data.

Neither Pravinkumar nor Yamamoto teach or suggest determining HiT based upon blood sample characteristic data including at least one of clot strength, clot elasticity, clot rate of formation and a clot rate of lysis.

For at least these reasons it is believed claim 28 is allowable over the combination of Cohen in view of Yamamoto and Privankumar.

As noted herein, none of the references teach or suggest a processor operable upon first and second blood sample characteristics including at least one of clot strength, clot elasticity, clot rate of formation and a clot rate of lysis to provide an indication of HiT. Thus, it is believed all of the pending claims are now allowable, as amended, and such action is respectfully requested.

New claims 43-50 set forth features of various embodiments of the invention. Support for claims 43-46 may be found in the specification at least at page 10, line 12 – page 11, line 5 and in Example 1 and Example 2. Support for claims 47-50 may be found in the specification at least in Example 1 and Example 2. As claim 28 is now believed to be allowable, these new claims are believed to be allowable and properly included in this application under an allowable base claim.

In view of the foregoing, the applicant submits the application as a whole is in condition for allowance, and such action is respectfully requested.

Dated: October 8, 2008

Respectfully submitted,

By /Anthony G Sitko, 36278/
Anthony G. Sitko
Registration No.: 36,278
MARSHALL, GERSTEIN & BORUN
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant